Remarks

Reconsideration of this application is respectfully requested.

Upon entry of the foregoing amendment, claims 1-22 and 26-29 are pending in the application, with claims 1, 6, 10, 16, 26, and 29 being the independent claims. Claim 29 is sought to be added. Claims 23-25 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein. Claims 1-9, 11-15, 17-22, and 26-28 are currently amended. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendment and the following remarks, Applicant respectfully requests that the Examiner reconsider all outstanding rejections and that they be withdrawn.

Rejections under 35 U.S.C. § 102

Claims 6-9 and 26-28

On page 2 of the Office Action, claims 6-9 and 26-28 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by U.S. Patent No. 6,603,857 to Batten-Carew *et al.* (hereinafter "Batten-Carew"). Applicant respectfully traverses this rejection.

Claims 6 and 26 recite features that distinguish over the applied reference, for example, using respective language, claims 6 and 26 recite, among other features, *determining whether a time-based access key is already available for a predetermined time, otherwise generating a time-based access key for the predetermined time.*

On page 2 of the Office Action, the Examiner alleges col. 3, lines 24-50 of

Batten-Carew teaches or suggests "obtaining a time based access key." However,

nothing in the cited material, or any other portion of Batten-Carew, teaches or suggests

determining whether a time-based access key is already available for a predetermined

time, otherwise generating a time-based access key for the predetermined time, as recited

in claims 6 and 26. Instead, the system in Batten-Carew generates a public encryption

key in response to each request to secure time-sensitive information. See, Batten-Carew,

col. 2, lines 59-67; col. 3, lines 38 - 48. In fact, the system in Batten-Carew requires the

end user to send a request for an encryption key for each piece of time-sensitive

information, where each request initiates the calculation of a secret number and the

generation of a key pair without regard to whether the public encryption key was

previously generated. *See, Id.* at col. 3, lines 24-39. The generation of a public

encryption key in response to every request to secure time-sensitive information, as

taught in the applied reference, is not the same as "*determining whether a time-based*

access key is already available for a predetermined time, otherwise generating a time-

based access key for the predetermined time," as recited in claims 6 and 26. Batten-

Carew cannot anticipate claims 6 and 26 because Batten-Crew fails to disclose each

element of claims 6 and 26.

For at least the reasons set forth above, Applicant submits that independent

claims 6 and 26, are patentable over Batten-Carew.

Furthermore, claims 7-9, all of which depend from independent claim 6, are also

patentable over Batten-Carew for reasons similar to those set forth above with respect to

independent claim 6, and further in view of their own respective features. Also, claims

27-28 are also patentable over Batten-Carew for reasons similar to those set forth above with respect to independent claim 26, and further in view of their own respective features.

Moreover, dependent claims 8 and 28 are patentable over Batten-Carew for the additional, independent reason that nothing in Batten-Carew teaches *storing the time-based access key at a remote key store*, as recited. The Examiner appears to rely on Figure 1 and Figure 3 of Batten-Carew to allegedly show this feature. However, upon inspection, nothing in the cited material or any other portion of Batten-Carew teaches *storing the time-based access key at a remote key store*. To the contrary, the system of Batten-Carew allows end users to independently generate time-based access keys for any point-in-time that has passed without the need to retrieve the key from a key store. More specifically, the system of Batten-Carew releases a secret number from which multiple iterations of one-way functions can be used to calculate the secret number corresponding to any point-in-time that has passed. *See, Id.* at col. 4, lines 6-16; col. 4, lines 57-65. Once this secret number is calculated by the end user, the end user can then generate the corresponding time-based access keys. *See, Id.* at col. 6, lines 49-56. In fact, the system of Batten-Carew is built upon the use of such one-way functions to calculate secret numbers for points-of-time that have passed such that those "corresponding secret numbers of points-in-time that have passed can be used to generate decryption keys." *See, Id.* at col. 7, lines 5-14. Because "recipient end-users may calculate a private decryption key from the corresponding secret number" for all points-of-time that have passed, there is no need to maintain a key store of time-based access keys in the system of Batten-Carew. *See, Id.* Applicant submits that nothing in the cited material or any

other portion of Batten-Carew teaches "*storing the time-based access key at a remote key store,*" as set forth in dependent claims 8 and 28. Batten-Carew fails to anticipate claims 8 and 28 because Batten-Carew fails to disclose each element of claims 8 and 28.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the § 102 rejection of claims 6-9 and 26-28.

Claims 10-15

On page 2 of the Office Action, claims 10-15 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Batten-Carew. Applicant respectfully traverses this rejection.

Independent claim 10 recites, among other features, *encrypting the document key using the time-based access key to produce an encrypted document key.*

The Examiner appears to rely on col. 4, lines 57-65 of Batten-Carew to allegedly show this feature. However, upon inspection, nothing in the cited material or any other portion of Batten-Carew teaches "*encrypting the document key using the time-based access key to produce an encrypted document key,*" as recited in claim 10. On the contrary, the system of Batten-Carew encrypts the document itself, not the document key, using a key generated from a secret number for a specified future point in time to create an encrypted copy of the document. See, Id. at col. 3, lines 35-55. Encrypting the document to produce an encrypted copy of the document, as taught in the applied reference, is not the same as "*encrypting the document key using the time-based access key to produce an encrypted document key,*" as recited in Applicant's independent claim 10. Batten-Carew does not anticipate claim 10 because Batten-Carew fails to disclose each element of claim 10.

Furthermore, independent claim 10 is patentable for the additional, independent reason that nothing in Batten-Carew teaches "*forming a secured electronic document from at least the encrypted data portion and the encrypted document key*," as recited in Applicant's claim 10. The Examiner appears to rely on col. 3, lines 49-52 of Batten-Carew to allegedly show this feature. However, upon inspection, nothing in the cited material or any other portion of Batten-Carew teaches "*forming a secured electronic document from at least the encrypted data portion and the encrypted document key*," as recited in claim 10. To the contrary, the system of Batten-Carew forms a secured electronic document by encrypting the time-sensitive information. *See, Id.* at col. 3, lines 47-55. In fact, the system in Batten-Carew does not utilize an encrypted document key at all, but rather a key pair which itself is not encrypted. *See, Id.* at col. 3, lines 39-46. Moreover, the decryption key in the system of Batten-Carew is not formed into a secured electronic document, but rather is generated after the fact by recipient end-users upon release of the corresponding secret number. *See, Id.* at col. 3, lines 57-64. Forming a secured electronic document by encrypting a document, as taught in the applied reference, is not the same as "*forming a secured electronic document from at least the encrypted data portion and the encrypted document key*," as recited in Applicant's independent claim 10. Batten-Carew does not anticipate claim 10 because Batten-Carew fails to disclose each element of claim 10.

For at least the reasons set forth above, Applicant submits that independent claim 10 is patentable over Batten-Carew.

Moreover, claims 11-15, all of which depend from independent claim 10, are also patentable over Batten-Carew for reasons similar to those set forth above with respect to independent claim 10, and further in view of their own respective features.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the §102 rejection of claims 10-15.

Claims 23-25

On page 2 of the Office Action, claims 23-25 were rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by Batten-Carew. Applicant respectfully traverses this rejection.

Although Applicant believes there are technical differences between these claims and the applied reference, in order to expedite prosecution Applicant has cancelled these claims. Therefore, Applicant believes the rejection of these claims has been rendered moot.

Rejections under 35 U.S.C. § 103

Claims 1-5 and 16-22

On page 5 of the Office Action, claims 1-5 and 16-22 were rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over U.S. Pub. No. 2004/0064710/Appl. No. 10/262,218 to Vainstein (hereinafter "Vainstein") in view of Batten-Carew. Applicant respectfully traverses this rejection.

The instant application 10/676,850 was assigned from Nicholas M. Ryan to PSS Systems, Inc., which assignment (Executed 1/4/04) was recorded at the U.S. Patent and Trademark Office (PTO) at Reel 014367, Frame 0687, and was assigned from PSS

Systems, Inc. to Guardian Data Storage, LLC, which assignment (Executed 1/24/07) was recorded at the PTO at Reel 018875, Frame 0612.

The applied reference, Vainstein (10/676,850), was assigned from Klimenty Vainstein to Pervasive Security Systems, Inc., which assignment (Executed 9/30/02) was recorded at the PTO at Reel 013349, Frame 0057, and was assigned from Pervasive Security Systems, Inc. to PSS Systems, Inc., which assignment (Executed 1/17/03) at the PTO at Reel 018875, Frame 0608, and was assigned from PSS Systems, Inc. to Guardian Data Storage, LLC, which assignment (Executed 1/24/07) was recorded at the PTO at Reel 018875, Frame 0612.

Thus, on 9/30/03, the date of filing of the instant application (Appl. No. 10/676,850), PSS Systems, Inc. co-owned the instant application and Vainstein (Appl. 10/262,218). Therefore, Vainstein is disqualified as a reference under 35 U.S.C. § 103(c)(1) from being used in a rejection under 35 U.S.C. § 103(a), as Vainstein qualifies as a reference only under 35 U.S.C. § 102(e), against the claims of the present application (10/676,850). *See* M.P.E.P. Section 706.02(I)(1)-(2).

Thus, because the Examiner has explicitly stated that Batten-Carew does not teach or suggest all of the features of claims 1 and 16, these claims should be found allowable. Also, at least based on their respective dependencies to claims 1 and 16, claims 2-5 and 17-22 should be found allowable, as well as for their additional respective distinguishing features.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the § 103 rejection of claims 1-5 and 16-22.

New Claim

New claim 29 is a computer program claim that recites features similar to allowable claims 6 and 26, and should be found allowable for the reasons discussed above.

Conclusion

All of the stated grounds of rejection have been properly traversed, accommodated, or rendered moot. Applicant therefore respectfully requests that the Examiner reconsider all presently outstanding rejections and that they be withdrawn. Applicant believes that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Reply to Office Action of July 2, 2007

Nicholas M. Ryan
Appl. No. 10/676,850

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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